

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of Glen TINDAL et al.

Confirmation No.: 8202

Serial No. 09/730,682

Examiner: M. PYZCHA

Filed: 12/06/2000

Art Unit: 2137

FOR: NETWORK OPERATING SYSTEM DATA DIRECTORY

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Alexandria, VA 22313-1450

**37 CFR 41.31 AMENDED APPEAL BRIEF**

Sir:

In response to the Notification of Non-Compliant Appeal Brief dated November 3, 2006, Applicant hereby submits an Amended Appeal Brief. In particular, the Status of Claims has been amended to indicate that the cancelled claims are cancelled, and the Summary of Claimed Subject Matter has been amended to include page and line numbers instead of paragraph numbers.

Applicant hereby appeals from the Final Rejection of April 14, 2006. A Pre-Appeal Brief Request for Review and the Notice of Appeal was filed on May 17, 2006.

**I. REAL PARTY IN INTEREST**

The real party in interest in this appeal is Intelliden Inc., as the assignee.

**II. RELATED APPEALS AND INTERFERENCES**

U.S. Application No. 09/942,833 entitled SYSTEM AND METHOD FOR MODELING A

NETWORK DEVICE'S CONFIGURATION is also assigned to Intelliden Inc. and is also currently under appeal.

U.S. Application No. 09/942,834 entitled SYSTEM AND METHOD FOR GENERATING A CONFIGURATION SCHEMA is also assigned to Intelliden Inc. and is also currently under appeal.

### **III. STATUS OF CLAIMS**

Claims 21-29 and 32-33 are pending, stand as rejected and are being appealed. Claims 1-20 and 30-31 have been cancelled. Claims 21 and 27 are independent. The appendix includes a true copy of all pending claims. No claims have been allowed.

### **IV. STATUS OF AMENDMENTS**

No amendments were filed subsequent to final rejection.

### **V. SUMMARY OF CLAIMED SUBJECT MATTER**

The technology of the present invention relates generally to network systems, and more particularly to systems and methods for configuration and management of network resources such as routers, optical devices and the like.

In one embodiment, for example, an administrator can configure a new device or reconfigure an existing device by logging into the network manager unit and selecting a particular network device to configure. The network manager unit can then retrieve a configuration record unique to the selected network device from the common repository and provide that record to the administrator. After receiving the record, the administrator can change fields therein without regard for manufacturer identity of the network device. Next, the network manager unit can automatically verify that the requested changes to the configuration record comply with the policies and rules established for the network, and

assuming that the changes do not violate any of the policies or rules, the network manager unit can update and store the modified configuration record in the central repository. A copy of the old configuration record can be kept in the central repository for fault recovery, modeling and other purposes (See Applicants' Specification page 7, lines 5-16).

Although several embodiments of the present invention are disclosed in the lengthy specification, Figures 4 and 5 and the supporting text provides a good summary of one of those embodiments, which is exemplary of the subject matter defined by independent claims 21 and 27. The main text describing Figures 4 and 5 is located at page 17, line 7 to page 20, line 4 of the specification and portions of that description are reproduced or summarized below. Note that it is not Applicants' intention to limit the scope of the invention to what is described in this summary. This material is purely illustrative.

Referring to FIGURE 4, which is reproduced below, there is illustrated a more detailed view of a directory 165, which is more generally discussed with reference to FIGURE 3 of Applicants' specification. Shown in this embodiment of the directory 165 are four interconnected modules: configuration storage 187, configuration comparator 190, configuration reader 195 and interface 200. The directory 165, however, does not need all of the modules to function in accordance with the principles of the present invention (See Applicants' Specification page 17, lines 8-12).

The configuration reader module 195 of the directory 165 is designed to initiate communication with (or directly communicate with) a target network device and retrieve that device's actual configuration. For example, the configuration reader can retrieve the

actual configuration from the memory 115 of a router 105 (shown in FIGURE 2 of Applicants' specification). This retrieved actual configuration can then be passed to the configuration comparator 190. The configuration reader 195 can also retrieve the intended configuration of the target device from the configuration storage 187 and pass that intended configuration to the configuration comparator 190. The configuration comparator 190 can then compare the actual configuration and the intended configuration and present the differences to an administrator 110 (also shown in FIGURE 2 of Applicants' specification). In one embodiment, the differences in the configurations are not only presented literally, but also in a natural language summary form. Once the differences have been identified, they can be used to identify a failed configuration installation and/or to aid the administrator in creating the proper configuration for a device (See Applicants' Specification page 17, line 13 to page 18, line 5).

As discussed with reference to FIGURE 2 in Applicants' specification, a network manager unit 140 may generate device-specific commands to effectuate a physical configuration in a network device that is represented by the generated configuration record. In one embodiment for example, device specific commands are created by retrieving an appropriate template and filling in the variable fields with the data from the configuration records and/or data input directly by the administrator 110. Once generated, these device-specific commands can be stored in the configuration record and/or they can be stored in the remote storage device 145 with an appropriate pointer stored in the configuration record (See Applicants' Specification, Page 11, line 13 to Page 12, line 14).

A configuration storage 187 is designed to store configuration records corresponding to network devices such as network devices 135 shown in FIGURE 2. In one embodiment, the configuration storage 187 is designed not only to store the present configuration record for a network device, but also to store previous configuration records for that device. By storing these previous configurations, fault recovery and correction are vastly improved over present systems because prior, successful configurations can be quickly retrieved and used to replace new, faulty configurations. For example, a prior configuration of a previously known good state can be retrieved and installed on the associated network device. This prior configuration could be days old or even weeks old. Prior configuration records can be distinguished by version numbers and/or a time stamp. Additionally, each configuration record can include a searchable summary that includes notes on the configuration and why that configuration was modified (See Applicants' Specification, page 18, lines 6-18).

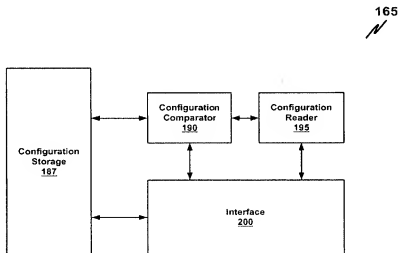


FIGURE 4.

Referring to FIGURE 5, there is illustrated an exemplary configuration record 205 for a typical network device. This configuration record 205 is divided into four portions: a common information model ("CIM") data portion 210, a vendor data portion 215, proprietary data portion 220 and a data pointer 225. The CIM data portion 210 contains data relating to the physical attributes of a particular network device such as name, device type, number of interfaces, capacity, etc. The CIM data items are defined in the CIM Specification v2.2 and the CIM Schema v2.4, both of which are well known in the art and incorporated herein by reference (See Applicants' Specification, page 18, line 19 to page 19, line 5).

The vendor data portion 215 of the configuration record contains standard vendor-specific data regarding the particular network device. For example, the vendor data portion 215 could indicate which version of an operating system that the network device is running or which features of the device are enabled. Generally, the data in the vendor data portion 215 is specific to each manufacturer and even to each model of network device (See Applicants' Specification page 19, lines 6-11).

The proprietary data portion 220 of the configuration record can contain data used by the network manager unit in configuring and managing the network devices. In one embodiment, for example, the proprietary data portion 220 includes a pointer to an address at which a core dump for a network device is stored. That is, if a router initiates a core dump, the location of that core dump could be recorded in the proprietary data portion 220 of the configuration record for that router. In other embodiments, the proprietary data portion 220 can store version numbers, time stamps, health records for a

particular configuration, configuration summary data, configuration notes, etc (See Applicants' Specification page 19, lines 12-19).

The pointer portion 225 of the configuration record 205 can be used to point to a storage location where the actual device-specific commands for the associated network device are stored. Similarly, the pointer 225 could be configured to point to a storage location for a device-specific template for configuring a newly installed network device. In other embodiments, the pointer portion 225 of the configuration record can be supplemented or replaced with a storage location for actual device-specific code (See Applicants' Specification page 19, line 20 to page 20, line 4).

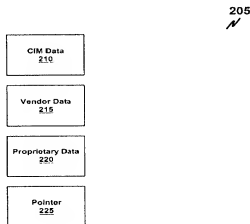


FIGURE 5

## VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

- 1) Whether claims 21, 22, 24, 26 and 32 are anticipated under 35 U.S.C. 102(b) as being unpatentable by Doolan (U.S. Patent No. 5,764,955).
- 2) Whether claims 27, 28 and 33 are anticipated under 35 U.S.C. 102(b) as being unpatentable by Malik (U.S. Patent No. 5,832,503).
- 3) Whether claim 23 is rendered obvious under 35 U.S.C. 103(a) as being

unpatentable by Doolan in view of Malik.

4) Whether claim 25 is rendered obvious under 35 U.S.C. 103(a) as being unpatentable by Doolan in view of Misheski.

5) Whether claim 29 is rendered obvious under 35 U.S.C. 103(a) as being unpatentable by Malik in view of Common Information Model – A Developer’s Perspective.

## **VII. ARGUMENT**

Applicants challenge the rejection of claims 21, 22, 24, 26, 27, 28, 32, and 33 individually. These claims were not properly rejected. All other claims are allowable, at least, because they depend from allowable claims.

### **A. Independent claim 21**

Claims 21 stands rejected under 35 U.S.C. 102(b) as being anticipated by Doolan (U.S. Patent No. 5,764,955). This rejection is improper for two reasons. First, the rejection fails to state a *prima facie* case of anticipation because the Final Action does not address all of the claim limitations of the claim. Second, Doolan fails to teach each of the elements recited in the claim.

#### **1. The Office Action fails to make a *prima facie* case of anticipation**

To establish a *prima facie* case of anticipation, the Final Action must establish that all claim limitations are taught by Doolan. See MPEP 2143.03. And establishing that all the claim limitations are taught requires that, for complex references like Doolan, “the particular part relied on must be designated as nearly as practicable.” See Rule 1.104 (c)(2). But the Office Action does not do so in this case.

Specifically, the Office Action merely mimics back the claim language of claim



21 and cites broad portions of Doolan by line and column number—the Final Action does not designate any particular constructs in Doolan that allegedly correspond to the claimed limitations; yet Applicants see no reason why it would be impractical to specifically identify—by citing specific constructs or collections of words—the alleged anticipatory subject matter in Doolan.

For example, the Final Action does not point to any specific construct within Doolan that allegedly corresponds to the recited “information” that “uniquely and generically indicates desired capabilities of the network device”

In addition, the Final Action does not point to any specific construct within Doolan that allegedly corresponds to the recited “actual-configuration data” that “corresponds to existing capabilities of the network device.”

Moreover, the Final Action alleges that somewhere within Col. 11, line 65 through Col. 12, line 32 that Doolan teaches altering the actual configuration data. But again, the Final Action does not designate any specific teaching relied upon in this portion of Doolan to support the rejection. Further, the Final Action does not specify what construct or language that allegedly teaches the claimed “configuration record.” Accordingly, the rejection is improper on its face and should be withdrawn.

## **2. Doolan does not teach each limitation recited claim 21**

### **a. Doolan does not teach gathering information “that uniquely and generically indicates desired capabilities of the network device**

The Final Action alleges that Doolan, at Col. 12, lines 33-40, teaches gathering information that uniquely and generically indicates desired capabilities of the network device. For convenience, Col. 12, lines 33-40 is provided below:

Initialization and provision service 318 is used to acquire and manage configuration information which is stored in CFG DATA 320, a configuration database. Configuration information is required to initialize sessions with each legacy network element. Configuration information includes the target identifier (TID), personal identifier (PID), user identifier (UID), activation scenario, manufacturer, model and failure scenarios.

A cursory review of this portion of Doolan reveals that there is simply no teaching or suggestion of gathering information that indicates desired capabilities of a network device. At best, this portion of Doolan discusses Doolan's CFG DATA 320, which includes configuration information that is utilized to initialize sessions with each of Doolan's legacy network elements (Doolan, Col. 12, lines 35-37). And once a session is initialized, Doolan's configuration information enables Doolan's mapper 300 to access the proper dictionary 304 and translate messages sent from the manager 200 in one syntax (e.g., CMIP) to another syntax (e.g., TL1) utilized by a legacy network device (See Doolan, Col. 20, lines 14-22). Thus, at most, Doolan's configuration information facilitates communications between Doolan's manager 200, which communicates with a CMIP syntax, and Doolan's legacy device which communicates with a legacy (e.g., TL1) syntax. As a consequence, there is nothing in Doolan's configuration information that indicates desired capabilities of a network device. Accordingly Doolan can not anticipate the invention recited in claim 21.

**b. Doolan does not teach obtaining actual-configuration data that corresponds to existing capabilities of the network device**

The Final Action states that Doolan, at Col. 12, lines 40-50 teaches obtaining actual-configuration data for the network device that corresponds to existing capabilities of the network device. Col 12, lines 40-50, however, merely provides additional details

about the same configuration information in Doolan's CFG DATA 320 that is described in Col. 12, lines 33-40. As a consequence, the Final Action alleges that Doolan's CFG DATA 320 teaches both the claimed information that "indicates desired capabilities" of the network device as well as the claimed "actual-configuration data" for the network device that corresponds to "existing capabilities of the network device;" thus the rejection of claim 21 is inconsistent in its position and clearly improper.

Moreover, as discussed above, Doolan's CFG DATA 320 facilitates communications between their manager 200, which communicates with a CMIP syntax, and their legacy device which communicates with a legacy (e.g., TL1) syntax.—it does not include any data that corresponds to existing capabilities of the network device; thus Doolan can not anticipate the claimed actual-configuration data, which corresponds to the "existing capabilities" of the network device.

**c. Doolan does not teach altering the actual-configuration data in accordance with the gathered information so as to generate a configuration record for the network device**

The Final Action states that Col. 11, line 65 through Col. 12, line 32 teach altering the actual-configuration data in accordance with the gathered information so as to generate a configuration record for the network device. Again the rejection presented in Final Action is inconsistent and improper. Specifically, as discussed above, the Final Action states that Doolan's CFG DATA 320 corresponds to the claimed actual-configuration data. But there is no suggestion Col. 11, line 65 through Col. 12, line 32 that Doolan's CFG DATA 320 is altered to generate a configuration record; thus the rejection is improper and should be withdrawn.

Moreover, Applicants have thoroughly reviewed Doolan, and Doolan does not teach nor suggest altering actual-configuration data to generate a configuration record; thus Doolan can not anticipate “altering the actual-configuration data in accordance with the gathered information so as to generate a configuration record for the network device.” Accordingly, the rejection should be withdrawn.

**d. Doolan does not teach a configuration record that represents a physical configuration for the network device that enables the network device to provide the desired capabilities**

The Final Action contends that Col. 11, line 65 through Col. 12, line 32 teach the claimed “configuration record.” As discussed above, the Final Action does not specifically identify any construct in Doolan that corresponds to the recited “configuration record.” And presumably, the Final Action can not be alleging that Doolan’s CFG DATA 320 corresponds to the claimed configuration record because it appears, although Applicants can not be certain due to the lack of specificity in the Final Action, that the Final Action already alleges that Doolan’s CFG Data 320 corresponds to the claimed “information” that “indicates desired capabilities of the network device” as well as the claimed “actual-configuration data for the network device.” As a consequence, it would be incongruous for the Final Action to be alleging the Doolan’s CFG DATA 320 also corresponds to the claimed “configuration record.”

Moreover, Doolan’s CFG DATA 320, as discussed above, includes configuration information that merely facilitates communications between their manager 200, which communicates with a CMIP syntax, and their legacy device which communicates with a legacy (e.g., TL1) syntax. Doolan’s configuration information in their CFG DATA 320,

however, does not represent “a physical configuration for the network device that enables the network device to provide the desired capabilities.”

Specifically, Doolan’s configuration information in their CFG DATA 320 is not in any way generated by altering actual configuration data. Moreover, Doolan’s configuration information does not correspond to any particular configuration—it does not represent a physical configuration the network device that enables the network device to provide the desired capabilities. In particular, Doolan’s configuration information in their CFG DATA 320 remains unchanged irrespective of the configuration of Doolan’s legacy devices. Doolan simply does not suggest that the configuration information in their CFG DATA 320 changes in any way based upon desired capabilities of a network device. As a consequence, Doolan’s configuration information in their CFG DATA 320 can not anticipate the claimed “configuration record” and the rejection should be withdrawn.

**B. Dependent Claim 22**

Claims 22 stands rejected under 35 U.S.C. 102(b) as being anticipated by Doolan (U.S. Patent No. 5,764,955). This rejection is improper two reasons. First, the rejection fails to state a *prima facie* case of anticipation because the Final Action does not address the claim limitations of the claim. Second, Doolan fails to teach each of the elements recited in the claim.

**1. The Office Action fails to make a *prima facie* case of anticipation**

To establish a *prima facie* case of anticipation, the Final Action must establish that all claim limitations are taught by Doolan. But the Final Action does not do so in this case. Specifically, claim 22 recites “storing the configuration record in a central

repository of configuration records.” The Final Action completely fails to acknowledge the “configuration record” limitation. Accordingly, the rejection is improper on its face and should be withdrawn.

## **2. Doolan does not teach each limitation recited claim 22**

As discussed above in the arguments presented relative to claim 21, which are incorporated here by reference, Doolan does not teach any construct that corresponds to the recited “configuration record.” And Doolan certainly does not teach anything that corresponds to the recited configuration record in their CFG DATA 320 database; thus the rejection is improper and should be withdrawn.

### **C. Dependent Claim 24**

Claim 24 stands rejected under 35 U.S.C. 102(b) as being anticipated by Doolan. This rejection is also improper for two reasons. First, the rejection fails to state a *prima facie* case of anticipation because the Final Action does not address the claim limitations of the claim. Second, Doolan fails to teach each of the elements recited in the claim.

#### **1. The Office Action fails to make a *prima facie* case of anticipation**

To establish a *prima facie* case of anticipation, the Final Action must establish that all claim limitations are taught by Doolan. But again, the Final Action does not do so in this case. Specifically, claim 24 recites “including a pointer in the configuration record that points to the storage location.” The Final Action completely fails to acknowledge these limitations with its rejection of claim 24 on page 3 of the Final Action. Accordingly, the rejection is improper on its face and should be withdrawn.

## **2. Doolan does not teach each limitation recited claim 24**

As discussed above in the arguments presented relative to claim 21, which are incorporated here by reference, Doolan does not teach any construct that corresponds to the recited “configuration record.” As a consequence, Doolan can not teach “including a pointer in the configuration record that points to the storage location;” thus the rejection is improper and should be withdrawn.

#### **D. Dependent Claim 26**

Claim 26 stands rejected under 35 U.S.C. 102(b) as being anticipated by Doolan. This rejection is also improper for two reasons: first, the rejection fails to state a *prima facie* case of anticipation because the Final Action does not address the claim limitations of claim 26, and second, Doolan fails to teach each of the elements recited in claim 26.

##### **1. The Office Action fails to make a *prima facie* case of anticipation**

To establish a *prima facie* case of anticipation, the Final Action must establish that all claim limitations are taught by Doolan. But again, the Final Action does not do so in this case. Specifically, claim 26 recites “storing in the configuration record substantially all commands capable of configuring the network device.” The Final Action completely fails to acknowledge the “in the configuration record” limitations with its rejection of claim 26 on page 3 of the Final Action. Accordingly, the rejection is improper in its face and should be withdrawn.

##### **2. Doolan does not teach each limitation recited claim 26**

As discussed above in the arguments presented relative to claim 21, which are incorporated here by reference, Doolan does not teach any construct that corresponds to the recited “configuration record.” As a consequence, Doolan can not teach “storing in

the configuration record substantially all commands capable of configuring the network device.” Accordingly, the rejection is improper and should be withdrawn.

**E. Dependent claim 32**

Claim 26 stands rejected under 35 U.S.C. 102(b) as being anticipated by Doolan. Doolan fails to teach each of the elements recited in the claim 32. As discussed above in the arguments presented relative to claim 21, which are incorporated here by reference, Doolan does not teach any construct that corresponds to the recited “configuration record.” Moreover, Doolan does not suggest any construct that “generically represents the physical configuration for the network device;” thus the rejection is improper and should be withdrawn.

**F. Independent claim 27**

Claim 27 stands rejected under 35 U.S.C. 102(b) as being anticipated by Malik (U.S. Patent No. 5,832,503). This rejection is improper for two reasons. First, the rejection fails to state a *prima facie* case of anticipation because the Final Action does not address all of the claim limitations of the claim. Second, Malik fails to teach each of the elements recited in the claim.

**1. The Office Action fails to make a *prima facie* case of anticipation**

To establish a *prima facie* case of anticipation, the Final Action must establish that all claim limitations are taught by Malik. See MPEP 2143.03. And establishing that all the claim limitations are taught requires that, for complex references like Malik, “the particular part relied on must be designated as nearly as practicable.” See Rule 1.104 (c)(2). But the Office Action does not do so in this case.

Specifically, the Office Action merely mimics back the claim language of claim



27 and cites broad portions of Malik by line and column number—the Final Action does not designate any particular constructs in Malik that allegedly correspond to the claimed limitations; yet Applicants see no reason why, if the limitations are taught by Malik, that it would be impractical to specifically identify—by citing specific constructs or collections of words in Malik—the alleged subject matter that teaches each limitation.

For example, the Final Action does not point to any specific construct within Malik that allegedly corresponds to the recited “first configuration data” that “uniquely and generically indicates desired capabilities of the network device.”

In addition, the Final Action does not point to any specific construct within Malik that allegedly corresponds to the recited “second configuration data” that includes “information about how the network device is currently configured to operate.”

Moreover, the Final Action alleges that somewhere within Col. 2, lines 21-42 and figure 3 that Malik teaches generating the configuration record by combining the first configuration data and the second configuration data into a configuration record for the network device. But again, the Final Action does not designate any specific language relied upon in this portion of Malik to support the rejection. Accordingly, the rejection is improper on its face and should be withdrawn.

## **2. Malik does not teach each limitation recited claim 27**

### **a. Malik does not teach gathering first configuration data from at least one source that uniquely and generically indicates desired capabilities of the network device**

The Final Action alleges that Malik, at Col. 2, lines 14-21, teaches gathering first configuration data that uniquely and generically indicates desired capabilities of the network device. For convenience, Col. 2, lines 14-21 of Malik is provided below:

The present invention utilizes a database of models, each "model" representing an associated network device and including attribute values for the parameters of that device. A configuration manager accesses a set of model types, each "model type" having an associated set of attributes. The configuration manager creates a template by selecting a model type and one or more attributes from the associated set of attributes, and then screens a selected model with the template to retrieve the values for each of the attributes in the template from the attribute values in the database....

Although Applicants are left to guess, presumably the Final Action is alleging that Malik's creation of a template by "selecting a model type and one or more attributes from the associated set of attributes" corresponds to the claimed "gathering first configuration data."

But Applicants' first configuration data "generically indicates desired capabilities of the network device." Malik's attribute, however, is merely a "configurable parameter within a model," which may be assigned a value within a range of possible values—it does not indicate any desired capability (See Malik Col. 4, lines 6-9). And the template that Malik creates does not indicate any desired capabilities either—it instead is a "record which contains a list of attributes for which the configurations will provide values." (Malik, Col. 4, lines 1-2). In other words, neither an attribute nor a list of attributes can indicate desired capabilities. And in addition, the particular attributes that are selected are specific to a model; thus they do not "generically" indicate desired capabilities of a network device.

Moreover, the values that Malik retrieves when Malik "screens a selected model with the template to retrieve the values for each of the attributes" are specific to a particular one of Malik's models; thus Malik's attribute values do not "generically

indicate desired capabilities” of a network device. Accordingly Malik can not anticipate the invention recited in claim 27.

**b. Malik does not teach retrieving second configuration data for the network device that includes information about how the network device is currently configured to operate**

The Final Action contends that Col. 3, lines 16-20 of Malik teaches retrieving second configuration data for the network device. The pertinent portions of Col. 3, lines 16-20 are reproduced below:

In accordance with this invention, a configuration manager 18 obtains the values of certain attributes (i.e., data which define the characteristics of the network device being modeled) in a desired configuration by interrogating the SPECTRUM model of the managed device.

Applicants have reviewed the entire teachings of Malik and it is clear that, the SPECTRUM model discussed at Col. 3, lines 16-20, is the same as the models discussed at Col. 2, lines 14-21 of Malik; thus Malik is merely restating that which Malik previously disclosed in the SUMMARY OF THE INVENTION at Col. lines 20-21. As a consequence, the subject matter at Col. 3, lines 16-20 of Malik is same subject matter that the Final Action alleges anticipates the first configuration data. But Applicants first configuration data and second configuration data are clearly distinct: the former “indicates desired capabilities” and the latter “including information about how the network device is currently configured to operate;” thus the rationale of the rejection is incongruous and does not identify any teaching in Malik that discloses both the claimed first configuration data and second configuration data. Accordingly, the rejection should be withdrawn.

**c. Malik does not teach generating the configuration record by combining the first configuration data and the second configuration data into a configuration record for the network device**

As discussed above, Malik neither teaches the “first configuration data” nor the “second configuration data,” and as a consequence, Malik can not teach generating the configuration record by combining the first configuration data and the second configuration data into a configuration record. Accordingly the rejection should be withdrawn.

**G. Dependent Claim 28**

Claim 28 stands rejected under 35 U.S.C. 102(b) as being anticipated by Malik. This rejection is also improper two reasons. First, the rejection fails to state a *prima facie* case of anticipation because the Final Action does not address the claim limitations of the claim. Second, Malik fails to teach each of the elements recited in the claim.

**1. The Office Action fails to make a *prima facie* case of anticipation**

To establish a *prima facie* case of anticipation, the Final Action must establish that all claim limitations are taught by Malik. But again, the Final Action does not do so in this case. Specifically, claim 28 recites “the first configuration data includes commands not corresponding to the current configuration of the network device.” The Final Action merely points to figure 3 without identifying a single item in figure 3 that allegedly teaches either the “first configuration data” or the “commands,” thus the rejection fails to honor Rule 1.104 (c)(2) and does not make out a *prima facie* case of anticipation. Accordingly, the rejection is improper in its face and should be withdrawn.

**2. Malik does not teach each limitation recited claim 28**

As discussed above in the arguments presented relative to claim 27, which are incorporated here by reference, Malik does not teach any construct that corresponds to the recited “first configuration data.” As a consequence, Malik can not teach “first configuration data” that “includes commands not corresponding to the current configuration.”

**H. Dependent Claim 33**

The Final Action alleges that Malik anticipates claim 33. Claim 33 recites “the configuration record generically represents the physical configuration for the network device.” Malik’s configuration record, however, consists of attributes and values that are specific to a particular model--Malik does not suggest their attributes or attribute values may be converted to a generic representation of the physical configuration for the network device. As a consequence, the rejection is improper and should be withdrawn.

**SUMMARY**


All of the pending claims are patentable for the reasons set forth herein, and Appellant respectfully requests such finding.

Three copies of this Appeal Brief are provided along with payment of the required fee.

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**CLAIMS APPENDIX**

21. A method for generating a configuration record for a network device, the method comprising the steps of:

gathering information from at least one source that uniquely and generically indicates desired capabilities of the network device;

obtaining actual-configuration data for the network device, wherein the actual-configuration data corresponds to existing capabilities of the network device; and

altering the actual-configuration data in accordance with the gathered information so as to generate a configuration record for the network device;

wherein the configuration record represents a physical configuration for the network device that enables the network device to provide the desired capabilities.

22. The method of claim 21, further comprising:

storing the configuration record in a central repository of configuration records.

23. The method of claim 21, wherein obtaining the actual-configuration data for the network device comprises:

retrieving the actual-configuration data directly from the network device.

24. The method of claim 21, further comprising:

storing in a storage location substantially all commands capable of configuring the network device; and

including a pointer in the configuration record that points to the storage location.

25. The method of claim 21, further comprising:

storing a prior version of the actual-configuration data; and

including a pointer in the configuration data to the prior version of the actual-configuration data.

26. The method of claim 21, further comprising:

storing in the configuration record substantially all commands capable of configuring the network device.

27. A method for generating a configuration record for a network device, the method comprising the steps of:

gathering first configuration data from at least one source that uniquely and generically indicates desired capabilities of the network device;

retrieving second configuration data for the network device, the second configuration data including information about how the network device is currently configured to operate;

generating the configuration record by combining the first configuration data and the second configuration data into a configuration record for the network device,

wherein the configuration record represents a physical configuration for the network device that enables the network device to provide the desired capabilities; and



storing the configuration record in a repository of configuration records.

28. The method of claim 27, wherein the first configuration data includes commands not corresponding to the current configuration of the network device.

29. The method of claim 28, wherein the first configuration data includes CIM data.

32. The method of claim 21, wherein the configuration record generically represents the physical configuration for the network device, and wherein the configuration record is usable to effectuate the physical configuration for the network device that enables the network device to provide the desired capabilities by enabling code that is specific to the network device to be generated and sent to the network device in response to the alteration of the actual configuration data.

33. The method of claim 27, wherein the configuration record generically represents the physical configuration for the network device, and wherein the configuration record is usable to effectuate the physical configuration for the network device that enables the network device to provide the desired capabilities by enabling code that is specific to the network device to be generated and sent to the network device.

**EVIDENCE APPENDIX**

**None**

**RELATED PROCEEDINGS APPENDIX**

**None**